

KATHLEEN I. ANDERSON

IBLA 81-458

Decided July 22, 1981

Appeal from a decision of the Eastern States Office, Bureau of Land Management, rejecting oil and gas lease offer ES 25409.

Reversed and remanded.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases:  
Applications: Drawings

Where a personal secretary who is not "in the business of providing assistance to participants in a Federal oil and gas leasing program" signs a drawing entry card as an "agent" of the offeror, he is not an agent within the meaning of 43 CFR 3102.2-6(a) and thus is not required to file an agency statement.

APPEARANCES: Donald H. Partington, Esq., Pensacola, Florida, for appellant.

OPINION BY CHIEF ADMINISTRATIVE JUDGE PARRETTE

The simultaneous noncompetitive oil and gas lease drawing entry card of Kathleen I. Anderson was drawn with first priority in the September 1980 drawing for parcel ES 105 in the Eastern States Office, Bureau of Land Management (BLM). The card was signed "Kathleen I. Anderson by Edward A. Poole, Agent." On February 25, 1981, BLM rejected appellant's application, stating that Edward A. Poole had signed the simultaneous oil and gas lease application as agent and had not submitted a copy of the agency statement required by 43 CFR 3102.2-6.

In her statement of reasons appellant states that Poole was authorized to sign her signature, that he is an employee and secretary of her husband, that he is not in the business of providing assistance to participants in a Federal oil and gas leasing program and that he,

therefore, is not subject to the requirements of 43 CFR 3102.2-6. Appellant's statement of reasons was accompanied by an affidavit to the same effect by Edward A. Poole.

[1] 43 CFR 3102.2-6(a) (Agents) requires the following:

(a) Any applicant receiving the assistance of any other person or entity which is in the business of providing assistance to participants in a Federal oil and gas leasing program shall submit with the lease offer, or the lease application if leasing is in accordance with Subpart 3112 of this title, a personally signed statement as to any understanding, or a personally signed copy of any written agreement or contract under which any service related to Federal oil and gas leasing or leases is authorized to be performed on behalf of such applicant. Such agreement or understanding might include, but is not limited to: A power of attorney; a service agreement setting forth duties and obligations; or a brokerage agreement.

Section 3100.0-5(d) (Definitions) further states:

(d) "Person or entity in the business of providing assistance to participants in a Federal oil and gas leasing program" means those offering services for consideration in connection with the acquisition of Federal oil and gas leases. Included in this definition are those enterprises, commonly known as filing services, which sign, formulate, prepare, offer advice on formulation or preparation, mail, deliver, receive mail or otherwise complete or file lease applications or offers for consideration. Excluded from the definition are those services which only tangentially relate to Federal oil and gas lease acquisition, such as general secretarial assistance, or general geologic advice which is not specifically related to Federal lease parcels or leasing.

[35 FR 9670, June 13, 1970, as amended at 45 FR 35160, May 23, 1980]

Since Poole is not "in the business of providing assistance to participants in a Federal oil and gas leasing program," it is clear that he is not an "agent" within the meaning of 43 CFR 3102.2-6. Thus, the BLM decision is in error. See W. H. Brown, 45 IBLA 81 (1980); accord, Evelyn Chambers, 27 IBLA 317, 83 I.D. 533 (1976).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is reversed, and the case is remanded to BLM for further action consistent herewith.

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Bernard V. Parrette  
Chief Administrative Judge

We concur:

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Anne Poindexter Lewis  
Administrative Judge

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Gail M. Frazier  
Administrative Judge